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GP140-04.UT

PATENT

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Linnen et al.	)	Group Art Unit: 1648
		)	
Serial No.:	10/688,489	)	
		)	
Filed:	October 16, 2003	)	
		)	
For:	Compositions and Methods for	)	
	Detecting West Nile Virus	)	
		)	
Examiner:	Zachariah Lucas	)	

**RESPONSE TO RESTRICTION REQUIREMENT**  
**AND**  
**PRELIMINARY AMENDMENT**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

In response to the Communication mailed from the Patent and Trademark Office on December 16, 2004, please consider the following.

**An Election in Response to Restriction Requirement** begins on page 2 of this paper.

**Amendments to the Claims** are reflected in the Listing of Claims which begins on page 3 of this paper.

**Remarks** begin on page 5 of this paper.

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**FROM:** Michael J. Gilly  
Gen-Probe Incorporated  
10210 Genetic Center Drive  
San Diego, California 92121  
Phone No. (858) 410-8657  
Facsimile No. (858) 410-8928

**TO:** Examiner: LUCAS, Zachariah  
Group 1648  
U.S. Patent & Trademark Office  
Facsimile No. (703) 872-9306

Number of pages (including this cover page): 11

In re Patent Application of:	)	Group Art Unit: 1648
	)	
LINNEN <i>et al.</i>	)	Examiner: LUCAS, Zachariah
	)	
Serial No. 10/688,489	)	Atty. Docket No. GP140-04.UT
	)	
Filed: October 16, 2003	)	Confirmation No. 3927
	)	
Title: COMPOSITIONS AND METHODS FOR DETECTING WEST NILE VIRUS	)	Date: March 15, 2005
	)	

Attached hereto are:

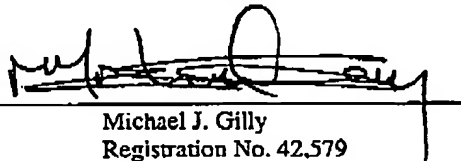
- 1) Transmittal Form (PTO/SB/21), 1 pg.;
- 2) Request for Extension of Time - 2 Mo. (PTO/SB/22), in duplicate, 2 pgs.;
- 3) Fee Transmittal (PTO/SB/17), in duplicate, 2 pgs.; and
- 4) Response to Restriction Requirement and Preliminary Amendment, 5 pgs.

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Date: March 15, 2005

By:

  
Michael J. Gilly  
Registration No. 42,579  
Attorney for Applicants

PTO/SB/21 (09-04)

Approved for use through 07/31/2006, OMB 0851-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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**TRANSMITTAL  
FORM**

(to be used for all correspondence after initial filing)

Total Number of Pages in This Submission

11

Application Number

10/688,489

Filing Date

October 16, 2003

First Named Inventor

LINNEN et al.

Art Unit

1848

Examiner Name

LUCAS, Zachariah

Attorney Docket Number

GP140-04.UT

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MAR 15 2005

**ENCLOSURES (Check all that apply)**

Fee Transmittal Form



Fee Attached



Amendment/Reply



After Final



Affidavits/declaration(s)



Extension of Time Request



Express Abandonment Request



Information Disclosure Statement



Certified Copy of Priority Document(s)



Reply to Missing Parts/Incomplete Application

☐ Reply to Missing Parts under 37 CFR 1.52 or 1.53

Drawing(s)



Licensing-related Papers



Petition



Petition to Convert to a Provisional Application



Power of Attorney, Revocation



Change of Correspondence Address



Terminal Disclaimer



Request for Refund



CD, Number of CD(s)

☐ Landscape Table on CD

After Allowance Communication to TC



Appeal Communication to Board of Appeals and Interferences



Appeal Communication to TC (Appeal Notice, Brief, Reply Brief)



Proprietary Information



Status Letter



Other Enclosure(s) (please identify below):

Facsimile Cover Sheet

Remarks

Response to Restriction Requirement and Preliminary Amendment

**SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT**

Firm Name

Gen-Probe Incorporated

Signature

Printed name

Michael J. Gilly

Date

March 15, 2005

Reg. No.

42,579

**CERTIFICATE OF TRANSMISSION/MAILING**

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Signature

Typed or printed name

Michael J. Gilly

Date

March 15, 2005

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PTO/SB/17 (12-04)  
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Effective on 12/08/2004. Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4616). <b>FEE TRANSMITTAL</b> <b>For FY 2005</b>		<b>Complete if Known</b> Application Number 10/688,489 Filing Date Oct. 16, 2003 First Named Inventor LINNEN et al. Examiner Name LUCAS, Zachariah Art Unit 1648 Attorney Docket No. GP140-04.UT	
<input type="checkbox"/> Applicant claims small entity status. See 37 CFR 1.27		RECEIVED CENTRAL FAX CENTER MAR 15 2005	
TOTAL AMOUNT OF PAYMENT (\$ 450.00)			

#### METHOD OF PAYMENT (check all that apply)

☐ Check ☐ Credit Card ☐ Money Order ☐ None ☐ Other (please identify): \_\_\_\_\_  
☒ Deposit Account Deposit Account Number 07-0835 Deposit Account Name: Gen-Probe Incorporated  
 For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)  
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☒ Charge any additional fee(s) or underpayments of fee(s) under 37 CFR 1.16 and 1.17 ☐ Credit any overpayments

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#### FEE CALCULATION

##### 1. BASIC FILING, SEARCH, AND EXAMINATION FEES

Application Type	FILING FEES		SEARCH FEES		EXAMINATION FEES		Fees Paid (\$)
	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	
Utility	300	150	500	250	200	100	
Design	200	100	100	50	130	65	
Plant	200	100	300	150	160	80	
Reissue	300	150	500	250	600	300	
Provisional	200	100	0	0	0	0	

##### 2. EXCESS CLAIM FEES

Fee Description	Fee (\$)	Small Entity Fee (\$)
Each claim over 20 or, for Reissues, each claim over 20 and more than in the original patent	50	25
Each independent claim over 3 or, for Reissues, each independent claim more than in the original patent	200	100
Multiple dependent claims	360	180

Total Claims *	Extra Claims	Fee (\$)	Fee Paid (\$)	Multiple Dependent Claims	Fee (\$)	Fee Paid (\$)
13	- 20 or HP = 0	x 0	= 0.00			
HP = highest number of total claims paid for, if greater than 20						
Indep. Claims *	Extra Claims	Fee (\$)	Fee Paid (\$)			
01	- 3 or HP = 0	x 0	= 0.00			
HP = highest number of independent claims paid for, if greater than 3						

\*Previously paid for  
82 total / 6 indep. claims

##### 3. APPLICATION SIZE FEE

If the specification and drawings exceed 100 sheets of paper, the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

Total Sheets	Extra Sheets	Number of each additional 50 or fraction thereof	Fee (\$)	Fees Paid (\$)
	- 100 =	/ 50 =	(round up to a whole number) x	

##### 4. OTHER FEE(S)

Non-English Specification, \$130 fee (no small entity discount)

Other: Petition for Extension of Time - 2 Mo.

Fees Paid (\$)

\$450.00

SUBMITTED BY		
Signature	Registration No. (Attorney/Agent) 42,579	Telephone (858) 410-8657
Name (Print/Type) Michael J. Gilly		Date March 15, 2005

This collection of information is required by 37 CFR 1.135. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 30 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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PTO/SB/17 (12-04)

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Effective on 12/09/2004.

Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).

**FEE TRANSMITTAL**  
**For FY 2005**☐ Applicant claims small entity status. See 37 CFR 1.27TOTAL AMOUNT OF PAYMENT (\$)**450.00****Complete if Known**

Application Number	10/688,489
Filing Date	Oct. 16, 2003
First Named Inventor	LINNEN et al.
Examiner Name	LUCAS, Zachariah
Art Unit	1848
Attorney Docket No.	GP140-04.UT

**METHOD OF PAYMENT (check all that apply)**

☐ Check ☐ Credit Card ☐ Money Order ☐ None ☐ Other (please identify): \_\_\_\_\_

☒ Deposit Account Deposit Account Number: **07-0835** Deposit Account Name: **Gen-Probe Incorporated**

For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)

☒ Charge fee(s) indicated below ☐ Charge fee(s) indicated below, except for the filing fee

☒ Charge any additional fee(s) or underpayments of fee(s) under 37 CFR 1.16 and 1.17 ☐ Credit any overpayments

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**FEE CALCULATION****1. BASIC FILING, SEARCH, AND EXAMINATION FEES**

Application Type	FILING FEES		SEARCH FEES		EXAMINATION FEES		Fees Paid (\$)
	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	
Utility	300	150	500	250	200	100	
Design	200	100	100	50	130	65	
Plant	200	100	300	150	160	80	
Reissue	300	150	500	250	600	300	
Provisional	200	100	0	0	0	0	

**2. EXCESS CLAIM FEES**

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13	- 20 or HP = 0	x 0	= 0.00			
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Indep. Claims *	Extra Claims	Fee (\$)	Fee Paid (\$)			
01	- 3 or HP = 0	x 0	= 0.00			
HP = highest number of independent claims paid for, if greater than 3						

\*Previously paid for  
82 total / 6 indep. claims**3. APPLICATION SIZE FEE**

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	- 100 =	/ 50 =	(round up to a whole number) x	=

**4. OTHER FEE(S)**

Non-English Specification, \$130 fee (no small entity discount)

Other: Petition for Extension of Time - 2 Mo.

Fees Paid (\$)

**\$450.00****SUBMITTED BY**

Signature		Registration No. (Attorney/Agent)	42,579	Telephone (858) 410-8657
Name (Print/Type)	Michael J. Gilly	Date	March 15, 2005	

This collection of information is required by 37 CFR 1.136. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 30 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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